

Mayflower

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# I WAS AMUSED

the other day when an Elderly Gentleman backed me up against the corner cigar store and enquired if I was the "OPPORTUNITY" Man. I admitted the soft impeachment and also smiled widely. The E. G. grabbed me by the coat lapel and delivered himself to this effect: There never was a gold mine. There isn't one today. There never was a cent made in any kind of mining. The only reason a gold mine is called a gold mine is because people are foolish enough to dump their good gold into it. They never get any out. And as often as not there's no mine at all. He knew. He had invested in mining stock once. The thing was a fake, of course. No more mining stock for him. Not in a thousand years."

Now, wouldn't that upper-cut you? Where his Nibs thought the world's present supply of gold came from, gets me. Perhaps he thought it all came from Bishop's Bank. The E. G., nevertheless, is representative of a class of people who swallow the bait of any fly-by-night fakir, or wildcatter who peddles out cheap stock and promises the earth, or at least a thousand dollars for every one put in. His proposition may be the wildest kind of "Wildcat," his roseate statements entirely unsupported, his "mine" a pipe-dream, and he himself belong in jail, but if his stuff is only cheap enough—a cent or two a share—they will buy it. Such people are not investors—they are "suckers" buying experience. But they hurt legitimate mining because ever afterwards they will keep on telling how they "invested" in mining and lost their money.

With regard to the Elderly Gentleman I steered him along to my Office, showed him ore specimens, photos, charts, maps, Government Reports, and statements of Honolulu people who have visited the "MAYFLOWER." He revised his conviction about gold mining to the extent that there was, at least, one gold mine, and that we owned it. Before he flew, he broke in for 1000 Shares. Other mining stocks and other Mayflowers can be bought at less prices, but our Mayflower is the Mayflower Quartz & Channel Mining Co. and the price is 25 Cents a Share. Drive a tack in that fact.

Yes, our "MAYFLOWER" is the real thing, with assurances attached. Buy the Stock at 25 Cents. You're missing a trick if you don't. Be brisk and get in your order. Buy it. It's a brilliant buy. BUY "MAYFLOWER" STOCK. BUY IT NOW!

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## WORK OF FIRST CIRCUIT COURT

REPORT OF FIRST JUDGE CIRCUIT  
COURT, FIRST CIRCUIT, TERRI-  
TORY OF HAWAII, FOR THE  
YEAR 1908.

To the Honorable A. S. Hartwell,  
Chief Justice Supreme Court, Terri-  
tory of Hawaii.

I have the honor to submit the fol-  
lowing report for the year 1908 rela-  
tive to the work of the Circuit Court  
of the First Judicial Circuit; also  
some suggestions as to legislative mat-  
ters which I submit for your recom-  
mendation to the ensuing legislature,  
provided the same meets with your  
approval.

### TERMS OF COURT.

I would suggest that Circuit Court  
terms be abolished and that the Cir-  
cuit Courts shall always be open and  
in continuous session, except on non-  
judicial days; and that, unless by con-  
sent, no jury in any civil case shall be  
notified to appear.

With terms of court, at which times  
only cases may be tried, justice may  
be unreasonably delayed, if not de-  
nied in some cases, while in other  
cases undue and injurious haste may  
be required or acceded to rather than  
suffer a postponement to a subsequent  
term. In circuits where the work is  
not sufficient to require the contin-  
uous attendance of jurors it would be  
an easy matter to excuse them until  
notified to appear.

Justice and reason, as well as econ-  
omy of time and money, demand that  
cases shall be tried and finally dis-  
posed of whenever they are ready for  
trial. Summons, of course, to be re-  
turnable twenty days after service, at  
which time the cause may be tried.

In the event that the terms of court  
are not abolished, then I would sug-  
gest that these words in the proviso,  
Section 2, Act 50, Laws 1907, namely:  
"March, June or November and no  
trial in any term case in," be stricken  
out.

### JURY FEES TAXED AS COSTS.

In view of the fact that courts,  
court houses and other facilities for  
the due administration of justice, are  
provided for and maintained by pub-  
lic authority and at public expense,  
and also in view of the further fact  
that the public is in no way concern-  
ed in the result of a civil case be-  
tween two individuals, I submit  
that, in addition to the usual costs in  
jury cases, the fees of jurors, or a  
substantial portion thereof, should be  
taxed as costs against the losing party  
in civil cases and in criminal cases  
against the defendant when convicted.  
A person having violated the criminal  
law there is no good reason why he  
should not be required to pay all the  
expense of the litigation which neces-  
sarily results from his own vice.

To these fees, in both civil and cri-  
minal cases, there should be added  
the charges for lodging and meals of  
jurors, as well as other incidental ex-  
penses.

In the application of such a law,  
however, in civil cases there should  
be an exception in favor of poor per-  
sons. No man because of his poverty  
should be denied the opportunity of  
seeking justice.

In the taxation of these jury fees  
as costs there are also other phases  
of the matter to be considered. As,  
under certain circumstances, justice  
would seem to dictate that such fees  
be taxed against a certain party to  
the action, regardless of the result of  
the trial. For instance, one party de-  
sires to waive a jury and the other  
party will not consent thereto; the  
party thus demanding a jury trial  
should be required to pay the jury  
fees though he may obtain the verdict.

Also, the jurors being in attendance  
and through no fault, or at the re-  
quest of one party, the case is con-  
tinued; the party thus occasioning the  
continuance should bear the burden  
up to that point irrespective of the  
result of the trial. If, however, the  
jurors being in attendance, and the  
case is continued by reason of the  
mutual fault or at the mutual re-  
quest of the parties, or they waive a  
jury, or settle the cause, then, (un-  
less another jury case is ready for  
trial), each party should be required  
to pay one half of the jurors' fees for  
that day's attendance.

Whatever views may be taken of  
the foregoing suggestions, it would  
seem to be a wise step to have all  
civil cases, when placed on the cal-  
endar, considered as jury waived; and  
if either or both parties in a case de-  
sires a jury, reasonable application  
thereof should be made, otherwise  
the parties shall be deemed to have  
waived trial by jury.

In this connection it may not be  
improper to observe that in some ju-  
risdictions the plaintiff in a civil case,  
each morning during the presenta-  
tion of his side thereof, is required  
to pay into court the fees for the jury  
for that day.

The taxation of all costs to the lit-  
igants as well as the practice of re-  
quiring the daily payment of jury fees  
during the trial would doubtless tend  
to prevent the bringing of actions  
without merit, and would also save  
time at the trial.

If the parties were brought to real-  
ize that the expense of a cause with-  
out merit and a trial unnecessarily  
prolonged must be borne by one or  
the other of them and not by the pub-  
lic, then they would exercise more  
care in bringing actions, and the time  
would be better and more profitably

utilized in presenting the same to the  
court and jury.

As to the fees of grand jurors, it does  
not appear to be practicable to in-  
clude them as costs. However, a cer-  
tain prescribed sum for each indict-  
ment found, if followed by a convic-  
tion, could properly be charged as  
costs against the defendant.

### COSTS IN APPEALS.

I submit that in the event jurors'  
fees are not taxed as costs then all  
costs in appeals from District and  
Circuit courts should be increased;  
the purpose being, not only to lighten  
the taxpayer's burden, but that there-  
by frivolous appeals, those without  
merit or for time only, would, to some  
extent, be prevented. All such costs  
to be paid as a prerequisite to the  
perfection of the appeal. These costs  
could very properly be made to in-  
clude a substantial docket fee in the  
Supreme and Circuit courts.

In appeals from District magis-  
trates for a trial de novo it is neces-  
sary to send up a transcript of the  
oral testimony but there should be a  
certified copy of the oral pleadings  
sent up with the written pleadings  
and other papers.

### COUNSEL FEES AND EXPENSES IN MURDER CASES.

I submit that it would be in accord  
with justice and humanity in cri-  
minal cases where the defendant is  
charged by indictment with a capital  
offense and he has no money, property  
or means with which to employ coun-  
sel and is otherwise unable to secure  
counsel for his defense, that the court,  
in assigning counsel, should be author-  
ized to make an order, directing that  
a fee for his counsel, not to exceed  
the sum of one hundred dollars, to-  
gether with all reasonable, proper and  
necessary expenses incurred or to be  
incurred in such defense, including a  
transcript of the evidence and record,  
be paid out of the public funds.

Such cases are seldom bailable, and  
the defendant, for this reason, has not  
the same opportunity to prepare for  
trial as in other cases. The respon-  
sibility devolving upon the court and  
jury as well as upon counsel is very  
great and the cause should be most  
carefully and thoroughly prepared and  
tried. All this requires time and ex-  
pense.

### EXPERT TESTIMONY.

I submit that with regard to ex-  
pert testimony, which is, indispen-  
sable in many cases, particularly in  
the trial of criminal cases where the  
accused pleads insanity, that the  
court, on motion of either party, or  
on its own motion, should be author-  
ized to appoint one or more medical,  
or other, experts whenever such are  
needed. An expert witness selected  
by the trial judge to act impartially  
as the "friend of the court," design-  
ates him as a non partizan, and natu-  
rally impresses upon the mind of the  
witness his true and impartial position  
relative to the two contending par-  
ties. His whole mind and thought is  
immediately aroused and becomes in-  
quisitive, concentrating its undivided  
and impartial force upon the single

(Continued on Page Six.)

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